

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**MONEX DEPOSIT COMPANY, MONEX
CREDIT COMPANY, NEWPORT
SERVICES CORPORATION, LOUIS
CARABINI, and MICHAEL CARABINI,**

Defendants.

Hon. _____

Case No. 1:17-cv-06416

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff Commodity Futures Trading Commission, (“CFTC” or “Commission”), hereby moves the Court for an order of preliminary injunction pursuant to Section 6c(a) Commodity Exchange Act, (“CEA”), 7 U.S.C. § 13a-1(a) (2012), enjoining Defendants Monex Deposit Company, Monex Credit Company, and Newport Services Corporation, (collectively “Monex”), from committing further violations of the CEA during the pendency of the litigation, appointing an independent monitor to assume control over Monex’s leveraged Atlas trading platform, freezing Monex’s assets or otherwise requiring Monex to post bond in the approximate amount of customer losses from leveraged Atlas trading between July 16, 2011 and the present, and otherwise preserving the *status quo* during the pendency of the litigation.

Contemporaneous with this Motion, the CFTC filed: (1) a Complaint for Injunctive and Equitable Relief and Penalties Under the Commodity Exchange Act, (2) a Motion to Exceed Page Limit for Plaintiff’s Memorandum in Support of Plaintiff’s Motion for Preliminary

Injunction, and (3) a Memorandum in Support of Plaintiff's Motion for Preliminary Injunction, all of which are incorporated herein by reference.

WHEREFORE, the Commission respectfully requests that this Court enter an order of preliminary injunction:

- A. Enjoining Monex and all persons insofar as they are acting as Monex's agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Monex who receive actual notice of such order by personal service or otherwise, from either directly or indirectly:
 1. Engaging in conduct in violation of Sections 4(a), 4b(a)(2)(A), (C), 4d, and 6(c)(1) of the CEA, 7 U.S.C. §§ 6(a), 6b(a)(2)(A), (C), 4d, 9(1), and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2017);
 2. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the CEA, 7 U.S.C. § 1a (2012));
 3. Entering into any transactions involving "commodity interests" (as that term is defined in Commission Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2017)), for Monex's own accounts or for any account in which they have a direct or indirect interest;
 4. Having any commodity interests traded on Monex's behalf;
 5. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
 6. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
 7. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017); and/or
 8. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2017)), agent, or any other officer or employee of any person (as that term is defined in Section 1a(38) of the CEA, 7 U.S.C. § 1a(38)) registered, exempted from registration, or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017);

- B. Appointing an independent monitor to assume control over Monex's leveraged Atlas trading platform;
- C. Freezing Monex's assets or otherwise requiring Monex to post bond in the approximate amount of customer losses from leveraged Atlas trading between July 16, 2011 and the present;
- D. Preserving the *status quo* during the pendency of the litigation; and
- E. Providing such other and further relief as the Court may deem necessary and appropriate under the circumstances.

Date: September 6, 2017

Respectfully submitted,

/s Carlin R. Metzger

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